IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

WP(C).No. 6502 of 2007(Y)

PETITIONER:

KRISHNA STEEL ROLLING MILLS,
NEW INDUSTRIAL DEVELOPMENT AREA, KANJIKODE,
PALAKKAD- 678621, REPRESENTED BY ITS MANAGING PARTNER, R.ELANGOVAN.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY, DEPARTMENT OF POWER, GOVERNMENT SECRETARIAT, TRIVANDRUM- 695001.**

2. **KERALA STATE ELECTRICITY BOARD, VYDUTHI BHAVAN, PATTOM PALACE PO, TRIVANDRUM- 695004, REPRESENTED BY ITS SECRETARY.**

3. **DEPUTY CHIEF ENGINEER, ELECTRICAL CIRCLE, KERALA STATE ELECTRICITY BOARD, T.B.ROAD, PALAKKAD.**

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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W.P.(C) NO.6502/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER DT. 17.3.05 ISSUED BOARD TO PETITIONER.

EXT.P2:- COPY OF THE RECEIPT DT. 8.6.05 FOR RS. 1,61,400/- ISSUED BY BOARD TO PETITIONER.

EXT.P3:- COPY OF THE ORDER DT. 12.7.05 ISSUED BY BOARD TO PETITIONER.

EXT.P4:- COPY OF THE PAY ORDER NO.307240 DT. 3.8.05 FOR RS. 4,50,000/- PAID TO BOARD BY PETITIONER.

EXT.P5:- COPY OF THE PROCEEDINGS ISSUED BY CHIEF ENGINEER (ELE.DISTN) NORTH, CALICUT TO PETITIONER.

EXT.P6:- COPY OF THE ORDER DT. 22.12.06 ISSUED BY RESPONDENT TO PETITIONER.

EXT.P7:- COPY OF THE ORDER DT. 18.1.07 ISSUED BY CHIEF ELECTRICAL INSPECTOR, TRIVANDRUM TO PETITIONER.

EXT.P7(a):- COPY OF THE ORDER DT. 18.1.07 ISSUED BY CHIEF ELECTRICAL INSPECTOR, TRIVANDRUM TO PETITIONER.

EXT.P8:- COPY OF THE APPLICATION DT. 23.12.06 FOR SUPPLY OF ELECTRICITY SUBMITTED BY PETITIONER TO RESPONDENTS.

EXT.P9:- COPY OF THE LETTER OF CONSENT DT. 17.5.06 ISSUED BY KERALA STATE POLLUTION CONTROL BOARD TO PETITIONER.

EXT.P 9(a):- COPY OF THE RESIDENTIAL/ OWNERSHIP CERTIFICATE DT. 15.12.06 ISSUED BY PUDUSSERY GRAMA PANCHAYATH TO PETITIONER.

EXT.P9(b):- COPY OF THE BILL DT. 15.12.06 ISSUED BY BOARD TO PETITIONER.

EXT.P9(c):- COPY OF THE ORDER AND PERMIT DT. 3.1.07 ISSUED DIRECTOR OF FACTORIES AND BOILERS TRIVANDRUM TO PETITIONER.

EXT.P10:- COPY OF THE GO NO.26022/F2/05/ID DT. 17.1.05 ISSUED BY INDUSTRIES (F) DEPARTMENT.

/TRUE COPY/

P.S. TO JUDGE

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THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.6502 of 2007-Y

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Dated this the 9th day of October, 2007.

JUDGMENT

1. By Ext.P5 dated 1-7-2006, the competent Engineer issued an order for allocation of power to the petitioner. That power allocation order was, obviously, issued on the basis of the earlier decision taken by the competent authorities in the Board, as is discernible from Ext.P3 dated 12-7-2005, after which, the Government issued Ext.P10 letter dated 17-11-2005 forwarding the minutes of a meeting of the Monitoring Committee held on 9-8-2005 in which it was decided, among other things, that the Government will not give further permission to start steel and allied industries in Palaghat/Kanjikod/Walayar area with effect from 1-10-2005. Obviously, therefore,

the Government decision contained in Ext.P10 would come into operation only with effect from 1-10-2005 and cannot affect those industries in relation to which action was taken for establishment of the industries and the Electricity Board had agreed for power allocation.

2. Ext.P10 fell for consideration before this Court in different writ petitions, including WP(C). Nos.30535/2006 and 4245/2007 which were disposed of on 18-5-2007, wherein the decision contained in the Government Letter Ext.P10 was held to be one which, in no manner, affects the right of the establishments to have power allocation in terms of the power allocation orders issued by the Electricity Board which is an exercise carried out by it in terms of the Electricity Act. Following the aforesaid judgment, this writ petition is also entitled to succeed.

3. In the result, this writ petition is allowed directing that the respondents will give effect to the power allocation ordered by it in Ext.P5 and take up Ext.P8 and issue

orders within an outer limit of three months from the date of receipt of a copy of this judgment.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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